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October 1, 2002

TN REGULATORY AUTHORITY
DOCKET ROOM

VIA HAND DELIVERY

The Honorable Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: *Petition of Tennessee UNE-P Coalition to Open a Contested Case Proceeding to
Declare Switching an Unrestricted Unbundled Network Element*
Docket No. 02-00207

Dear Chairman Kyle:

Enclosed herein for filing, please find the original and fourteen copies of BellSouth Telecommunications, Inc.'s Response to Petition to Reconsider and Request for Additional Time to Respond to Data Requests. Copies of the enclosed have been provided to counsel of record.

Cordially,

Joelle Phillips

JP/jej

Enclosure

cc: The Honorable Ron Jones, Hearing Officer

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Petition of Tennessee UNE-P Coalition to Open a Contested Case Proceeding to Declare Switching an Unrestricted Unbundled Network Element*

Docket No. 02-00207

BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE TO PETITION TO RECONSIDER AND
REQUEST FOR ADDITIONAL TIME TO RESPOND
TO DATA REQUESTS

BellSouth Telecommunications, Inc. ("BellSouth") files this Response to Petition to Reconsider and Request for Additional Time to Respond to Data Requests and respectfully shows the Hearing Officer as follows:

BellSouth has no opposition to an extension of time to third party CLECs filing responses to Authority Data Requests in this docket in order to ensure that parties responding to the Data Requests have ample time to provide complete answers. BellSouth believes that these parties are in the best position to evaluate the amount of time that will be required for them to respond completely to the Data Requests, and BellSouth will not oppose any reasonable request for an extension of time regarding those Data Requests.

In its filing, XO also raised issues regarding the confidentiality and competitively sensitive nature of the responses to the Data Requests. BellSouth has consistently maintained in this docket that it is willing to enter into separate protective orders to ensure that confidential information provided in response to Data Requests to third parties would be protected to the same extent as information provided by parties in this docket. BellSouth is happy to discuss the development of an even more restrictive protective order if these third party respondents believe the existing form of protective order to be inadequate to protect the information at issue.

BellSouth does not, however, agree that it would be appropriate for parties to provide the information to the Authority without providing the information to other parties in the docket. In its filings, XO takes the position that the provision of information to the TRA and not to BellSouth is in keeping with the Authority's rulings on wireline activity reports. BellSouth respectfully submits that this is incorrect. In Docket No. 97-00309, the issue of whether or not copies of these reports should be served on the parties was raised and squarely addressed by the Directors. The Directors ruled that the parties were required to serve copies of the reports on all parties to the docket subject to the protective order entered by the Authority. *See* Tr. Vol. XD at pgs. 251-252 and Vol. XID at pgs. 225-226 (copies attached).

BellSouth strongly objects to aggregation of the data, which BellSouth believes will prejudice its ability to defend itself in this proceeding. Aggregation obscures much of the structure of the market from the participants in the proceeding, rendering the information filed less useful in proving or disproving allegations in this docket.

In addition to the case-specific reasons for providing the information in a non-aggregated form, BellSouth also believes that XO's request to prevent parties in the docket from viewing this information undermines generally the use of protective orders in similar situations before the Authority. Protective orders have long been used to enable parties to litigate matters related to competitively sensitive issues. If parties were always to take the position articulated by XO, whenever competitively sensitive information was at issue, then the ability of parties to use and obtain evidence to advance cases before the TRA would be severely undermined. Protective orders are designed precisely for the situation at issue in this case in which competitively sensitive information is at the heart of a contested matter before the Authority. XO does not cite any examples of a party in Tennessee violating the terms of a protective order.

Finally, XO's September 25, 2002 letter also notes that the non-party CLECs share a concern over the small number of CLECs who received Staff Data Requests. XO notes that "there are certainly more than four (CLECs) which provide in whole or in part facilities-based service in Tennessee. Both as a matter of fairness and to help protect the confidentiality of CLEC responses, XO believes that the Staff should issue Data Requests to all active CLECs in Tennessee." BellSouth has no objection to Data Requests being served on additional parties in this docket. BellSouth does not believe, however, for the reasons discussed above, that such information should be shared with the parties only on an aggregated basis. Rather, under the restrictions of a protective order, that information should be made available to all the parties in this docket who need to use that information in order to effectively try this case.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2002, a copy of the foregoing document was served on counsel for known parties, via the method indicated, addressed as follows:

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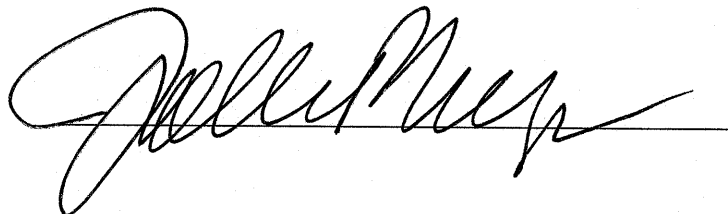
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BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

BELLSOUTH TELECOMMUNICATIONS, INC.'S
ENTRY INTO LONG DISTANCE (INTERLATA)
SERVICE IN TENNESSEE PURSUANT TO
SECTION 271 OF THE TELECOMMUNICATIONS
ACT OF 1996

DOCKET NO.
97-00309

COPY

TRANSCRIPT OF PROCEEDINGS

Wednesday, May 27, 1998

VOLUME X D

APPEARANCES:

For BellSouth:

Mr. Guy M. Hicks
Mr. William J. Ellenberg, II
Mr. Bennett L. Ross

For AT&T:

Mr. James P. Lamoureux

For MCI:

Mr. Dulaney L. O'Roark

For TCG MidSouth, Inc.:

Ms. D. Billye Sanders

For Consumer Advocate:

Mr. Vance L. Broemel

For ACSI, SECA,
Brooks, and NEXTLINK:

Mr. Henry Walker

For Intermedia,
LCI, and WorldCom:

Mr. H. LaDon Baltimore

For BellSouth
Long Distance:

Mr. Guilford F. Thornton, Jr.

Reported by:
Patricia W. Smith, RPR, CCR



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P.O. Box 290903
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1 DIRECTOR MALONE: The Authority will
2 take -- the Authority recognizes its 271
3 responsibilities. And the Authority will act in a
4 manner consistent with that. And I think that would
5 mean within our capabilities gathering information from
6 CLECs who are not parties to this proceeding.

7 So it is our hope, at least I don't --
8 I can't speak for Director Kyle and Chairman Greer.
9 But I think it's our hope to gather the information
10 from CLECs that are not a party to this docket in the
11 same format as we are requesting to get from the
12 parties that are in this docket.

13 With respect to your other objection
14 about providing it to the Authority but not to the
15 parties to this docket, the other CLECs have agreed to
16 do that. And while I think it's probably not something
17 that the Authority would request be provided to the
18 parties of record in this docket on an indefinite
19 basis, I think for what we're trying to do under 271,
20 and your clients having intervened in this proceeding
21 to fully participate, you know, I'm a little reluctant
22 to be any more sympathetic than I've already been.

23 I think we have a proprietary
24 agreement in place. All parties have agreed to be
25 bound by that protective order. And for the limited

1 time and for the limited purpose I just think the
2 Authority needs the information.

3 MR. BALTIMORE: Let me make it
4 absolutely clear, if I didn't. My clients have no
5 problem whatsoever with providing it to the directors
6 and the staff. There was just some concern with the
7 other parties getting that information.

8 DIRECTOR MALONE: Are you stating that
9 as a concern, or are you saying your clients won't do
10 it?

11 MR. BALTIMORE: Just a concern. They
12 will comply.

13 DIRECTOR MALONE: Well, then I think
14 we can move on.

15 CHAIRMAN GREER: Yeah, let's move on
16 then.

17 MR. ROSS: Mr. Chairman, I'd like to
18 go ahead and mark as an exhibit MCI's response to the
19 Consumer Advocate's discovery request. And we will
20 treat that as proprietary, because it does have a
21 number of customers.

22 CHAIRMAN GREER: Without objection,
23 this will be Exhibit 102.

24 (Exhibit 102 marked.)

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

BELLSOUTH TELECOMMUNICATIONS, INC.'S
ENTRY INTO LONG DISTANCE (INTERLATA)
SERVICE IN TENNESSEE PURSUANT TO
SECTION 271 OF THE TELECOMMUNICATIONS
ACT OF 1996

)
)
) Docket No.
) 97-00309
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COPY

TRANSCRIPT OF PROCEEDINGS

Thursday, May 28, 1998

VOLUME XI D

APPEARANCES:

For BellSouth:	Mr. Guy M. Hicks
For AT&T:	Mr. James P. Lamoureux
For MCI:	Mr. Jon Hastings
For TCG Midsouth, Inc.:	Ms. D. Billye Sanders
For Consumer Advocate:	Mr. Vance L. Broemel
For ACSI, SECA, Brooks, and NEXTLINK:	Mr. Henry Walker
For Intermedia, LCI, and WorldCom:	Mr. H. LaDon Baltimore
For BellSouth Long Distance:	Mr. Guilford F. Thornton, Jr.

Reported By:
Carolyn J. Bertram, CCR

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1 how that's construed sometimes. I think we ought to
2 take official notice of, at a minimum, all CSAs filed
3 after the passage of the Telecommunications Act of
4 1996.

5 CHAIRMAN GREER: Without objection,
6 so ordered.

7 DIRECTOR MALONE: And also,
8 Mr. Chairman, we have requested of BellSouth and also
9 of the CLECs to submit certain information to the
10 Authority.

11 (Handout distributed by Mr.
12 Collier.)

13 DIRECTOR MALONE: Under the
14 protective order that is down in this case, and the
15 Authority's also indicated to the extent within its
16 ability and practicality, it will seek to submit this
17 information to the FCC under protection as well.
18 Mr. Lamoureux has been so kind as to provide us the
19 Code of Federal Regulations that would guide us in
20 doing that.

21 And I think it might be helpful if
22 Mr. Lamoureux maybe communicated with the other
23 parties about how the information that we've requested
24 in the two documents be submitted to us, maybe under a
25 cover letter referring to the confidentiality, both

1 our agreement and the Code of Federal Regulations.

2 And I would ask that all the parties
3 treat very seriously the confidentiality agreement we
4 have in this case and that all parties take note of
5 the fact that the CLECs are, with some concern,
6 providing this information, and let us do our best to
7 remove that concern by protecting this information as
8 best we can. I think that's all I had.

9 CHAIRMAN GREER: All in favor of
10 allowing Mr. Hickerson be dismissed. Mr. Hickerson,
11 you're dismissed. Okay. The procedural schedule, the
12 briefing schedule.

13 MR. HICKS: Due to the fact that we
14 have, as you well know, a very lengthy transcript and
15 long record and many, many witnesses in this
16 proceeding, BellSouth would request that we have two
17 weeks from Monday to file a brief, if that would be
18 acceptable. That would be June 15th.

19 CHAIRMAN GREER: Any objections?

20 MR. WALKER: I think that's way too
21 soon.

22 DIRECTOR MALONE: I think that's too
23 soon. I think given the volume of this docket, the
24 record -- I don't even think three weeks of hearing
25 even justifies the amount of paper that we have to